



TAX TOOLS FOR PRIVATE LAND



Manitoulin Island Ecogift

Facts for Advisors

THE ECOLOGICAL GIFTS PROGRAM

offers an income tax tool for clients who count rural or wilderness lands among their assets and who wish to leave a legacy for future generations. Protecting nature on such properties, through partial or full donations, can result in large charitable donation receipts and substantial income tax benefits. In many scenarios, the landowner can continue to hold title and/or live on the land. Ecogifts enable clients to create a natural legacy and protect family lands while benefiting from specific tax benefits.

Select Income Tax Act (ITA) References: 110.1(1)(d), 118.1(1), 118.1(10.1 to 10.5, 12), 207.31

Ecological gifts (ecogifts) receive tax treatment that is superior to most other charitable gifts:

- eliminated taxable capital gain on the disposition of the property (38 (a.2) ITA)
- no income limit for calculating the tax credit/deduction (118.1(1) ITA)
- donation value certified by the Government of Canada (118.1(10.1 to 10.5) ITA)
- tax liability for donees that do not protect the gifted land (207.31 ITA)

Donation Options

Each ecogift is unique and a number of options are available to donors.

Ecogift Donors Across Canada

Since 1995, over 450 properties have been donated worth more than \$123 million.

Ranging from thousands to millions of dollars, ecogifts are among the largest charitable gifts being made in Canada. Many Canadians who own wetlands, woodlands and other wildlife habitats cherish their land and want to see its natural features preserved. Those interested in creating a 'green' legacy, either directly or through a bequest, require well-informed professional advice.

Landowners do not need to sever their connection with the land. Ecogifts donated to land trusts, selected other charitable conservation organizations, and government agencies include:

- *Conservation easements*: Landowners can conserve the natural values of their property and still retain ownership by entering into a conservation easement agreement with a nature conservation organization that will restrict designated activities in perpetuity.
- *Residual interests (IT 226R Canada Revenue Agency)*: Landowners may donate the property to an eligible organization and retain the right to use or live on the land for their lifetime or the lifetime of someone else they name, such as children. >>>

- *Full title*: Of course, it is possible to donate fee simple title with no reserved rights – many landowners choose this option. In some cases, donors of large properties who wish to protect the land from development or other land uses may retain a homestead, cottage or farm, giving the woods, meadows, wetlands and streams to a trusted charity or government conservation agency.

Split-receipts

In some instances it is possible for a donor to receive cash that is equal to up to 80% of the value of their gift. The eligible amount of the gift is the difference between the fair market value of the donated land and the amount of the cash advantage received. Split-receipting can be applied to all donation options described above. In addition, a license entitling the donor to use the property after title is donated could be considered as a split-receipt advantage. (*Income Tax Technical News #26 Dec. 24, 2002 Canada Revenue Agency*)

Income Tax and Other Benefits

- Ecogift donations are **not subject to the usual income limits** (usually 75% of income) in calculating the income tax credit (for individuals) or deduction (for corporations).
- Ecogifts made after May 2, 2006 benefit from the **elimination of the normal capital gain** realized on disposition of the property. Currently 50% of the capital gain for non-certified gifts or sales of land is included in taxable income.
- Environment Canada issues a *Statement of Fair Market Value* **certifying the gift's value** after the gift is made, which the donor submits with the income tax return.
- Potential donors who want certainty about the value of their intended donation can request that Environment Canada issue a *Notice of Determination of Fair Market Value* **before** the donation is made.
- Environment Canada **reviews and approves charitable recipients** to ensure such



Dr. Henry and Kathleen Barnett shielded their remarkable forested lands north of Toronto from development with an ecogift conservation easement.

organizations are dedicated to protecting Canada's natural heritage.

- Donors worried about their cherished lands can be confident that **income tax penalties can be imposed on charitable and municipal recipients** of ecogifts who dispose of title or make a change of use without Environment Canada's prior authorization.
- Making an ecogift can **help eliminate potential family disputes** over what to do with the land following the death of the owner.
- An ecogift involving certain partial interests **may reduce the property tax burden.**

To claim a land donation as an ecogift, Environment Canada must approve the recipient and certify the ecological sensitivity and fair market value of the gift.

For further information, including handbooks, fact sheets, forms and guidelines:

www.cws-scf.ec.gc.ca/egp-pde
www.on.ec.gc.ca/ecogifts

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